IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7653 OF 2007

Dr.Harishchandra Chilu Metkar (Deceased) through his Lrs. Sagar Harishchandra Metkar and Anr. .. Petitioners

Versus

Yogesh Nimba Alias Nilkanth Metkar .. Respondent

CORAM : S.C.DHARMADHIKARI, J.

DATE : 12th December 2007

P.C.

. By this petition under Article 227 of the Constitution of India, the petitioner is challenging an order passed on 29th August 2007 on an application made under section 151 by the respondent - plaintiff.

2. Respondent plaintiff sought police

protection soas to effectively and properly implement the order of injunction which is operating against the present petitioner and in favour of respondent. He sought such assistance on account of reasons mentioned in the application.

3. There is considerable merit in the grievance of the petitioner that this application seeking police assistance was filed on 8th October 2003, the order of injunction is dated 8th July 2003 and the impugned order has been passed after nearly four years.

4. In such circumstance, instead of summoning the respondent and going into the necessity of passing such an order after almost three and half years, it would be appropriate if the petitioner is permitted to move the trial court for appropriate relief including seeking modification and variation of the order under

challenge and if such an application is made, it must be considered on its own merits and uninfluenced by the fact that earlier police protection has been granted. Trial Court to take into consideration necessity and urgency of the request and whether the materials are enough to conclude that even after the lapse of nearly four years from the date of the order such a protection is necessary. With this liberty, present petition is disposed of.

(S.C.Dharmadhikari, J)